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## Most Noble JOHN Dule of ATHOLL,

## AND

CHARLOTTE Duchess of ATHOLL his Wife, Baroness
STRANGE.

HE Isle of Man is a seudatory Kingdom held of the Crown of England.

The Patronage of the Bishoprick of Sodor proves it to have been an ancient Kingdom, and it has always been governed by its own Prince, Legislature, Laws, and Customs.

The first Grant of this 1ste to the Noble Family under whom their Graces claim by lineal Descent, was to Sir John Stanley and his Heirs, in the 7th Year of King Henry IV.

In order to determine some Family Disputes which had arisen and been made an End of for a pecuniary Consideration paid by William Earl of Derby, King James I.

in the 7th Year of his Reign, re-granted the Isle to the faid Earl.

And in the same Year an Act of Parliament passed, intituled, "An Act for the "Assuring and Establishing the "Body of Man;" by which it was enacted, That the Isle should for ever thereafter be hed and enjoyed by the Earl and the Countess his Wise, and their two Sons, James Lord Stanley and Robert Stanley, in Tail Male, and the Heirs Male of the Body of the Earl; and in Default of such Issue, by the right Heirs of James Lord Stanley, quietly, freely, and clearly against his Majesty, his Heirs and Successor, under the Tenures, Rents, and Services reserved, and against the several other Persons named in the Act, the Co-heiresses of Ferdinando Earl of Derby—with a Restraint of Alienation upon the several Persons appointed to take under the Act.

The Grant, as described both in the Letters Pacent and Act of Parliament, is

made in the most general and comprehensive Terms-It is-

The Isle, Castle, Peele, and Lordship of Man, with the Appurtenances.

And all Islands, Lordships, Castles, &c. thereto belonging—The Patronage of the Bishoprick—All Forests, Parks, &c.

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Fisheries,

Fisheries, Fishing-Places, Royalties, Regalities, Franchises, Sea-Ports, and all Things to Ports duly appertaining, Lands then or theretofore overflown with the Sea and then gained from the Sea, or which should be thereafter gained from the Sea, lying or being in or near to the said Isle of Man, Fines, Americaments, An-

chorage, Groundage, Wrecks of the Sea, Escheats, Forseitures.

Courts Admiral, Courts Port Morte, &c. and all Forfeitures, Penalties, Casualties, and Advantages whatever incident to the said Courts—Tolls, Customs, Free Customs, Imports, Profits, Emoluments, and Hereditaments whatsoever, being or happening in or within the said Isle, Castle, Peele, and Lordship, or within the Sea to the said Island adjacent or belonging, or in or within any other Islands, Lordships, or Lands belonging, or in, to, or out of the same, or any of them, howsoever incident or belonging, or Part or Parcel of the same, at any time theretofore had, known, reputed, occupied, or enjoyed; and the Reversion of all the Premisses and the Rents, Duties, Customs, and Services thereto incident or appertaining; and all Liberties, Franchises, Privileges, Jurisdictions, Forfeitures, Depredaries, Immunities, &c.

And the General Saving Claufe expressly bars all Right of the Crown.

The Island hath been always governed by its own Laws and Customs; and when Royal Commissions have heretofore issued (for the King's Writ runneth not in the Isle) for Redress of Injuries, the Justices assigned were to proceed "Secun-

" dum Legem & Consuetudinem Partium illarum."

The Government is composed of Three States — 1st, The Lord, who (though the Title hath been long since waived) hath ever retained the Rights of the ancient Kings, in assenting or dissenting to the Laws proposed, and by exercising an appellate Jurisdiction—2d. The Governor and Council; and 3d. The Keys, who are the Representatives of the Commons—Their triple Concurrence makes the Law.

The Laws of the Island have established a Book of Rates payable to the Lord for various enumerated Commodities—All other Goods pay a Duty of Two and One-

half per Cent. only ad valorem upon Importations.

All the Courts are held in the Name of the Magistrates; and Officers are sworn to the Lord; and it is of their Juridiction to take Cognizance of every Thing arising within the Limits of the Grant, and the Courts of Judicature in the neighbouring Kingdoms have frequently, upon Application, refused to intermeddle, from a Want

of Jurisdiction.

Courts Admiral and Port Morte are constantly held, and Processes executed under the Authority of the Lord only; and the Jurisdiction of the Judges extends from the sull Sea Mark on the Shore to the Bounds of the Lord's Jurisdiction in the Seas adjacent to the lsle—Frequent Seizures have been made upon the Coast for Importations without paying the Lord's Duty, re-shipping Goods from one Vessel to another, and the like Offences, and the Forseitures are appropriated to the Lord's Benefit—All royal Fish, Wrecks of the Sea, and the like, are his by Prerogative—And in the Season for the Herring Fishery, his Courts of Admiralty appoint their Admiral and Vice-Admiral, who hoist their Flags, and make and support their Regulations under proper Penalties, which fall to the Lord upon every Misbehaviour.

In general, every Act of Dominion and Ownership granted by the Letters Patent and Act of Parliament, hath been constantly exercised by the Lord and his Officers,

not only in the Sea Ports, but in the Seas adjacent.

Geo. I. An Act was passed for the Improvement of his Majesty's Revenues, Customs, Ex-6, ch. 28. cise, and Inland Duties; by which a general Prohibition was laid upon the Impor-

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tation of all Commodities from the Isle of Man into Great Britain or Ireland, not

of the proper Growth, Produce, or Manufacture of that Island.

This Act, though very prejudicial, had regard to the Privileges of the Island, as the Prohibition extended only to Imports from the Island into Great Britain or Ireland, or within the Limits of any Ports thereto belonging \_\_\_\_ The Lord's Ports remained inviolate, he was not deprived of his Forfeitures, the Jurisdiction of his Courts was not invaded.

The Earl of Derby's then Leffees or Farmers of the Duties and Customs of the Isle petitioned, and were heard before the House of Commons against it; and their

Petition produced the following Refolution of the Committee?

"Ordered, That it be an Instruction to the Committee, That they have Power to " receive a Clause to enable the Lords Commissioners of the Treasury to treat " and agree with the Earl of Derby and others, for the Purchase of their Estate and

" Interest in the Isle of Man for the Use of his Majesty."

Accordingly, " for the better Enabling his Majesty to prevent Frauds and Abuses in " the Exporting or Importing Goods and Merchandizes to and from the Isle of Man," a Clause was inserted in the Act, authorizing the Commissioners of the Treasury on behalf of his Majesty, and James then Earl of Derby, and all other Persons claiming under him or his Ancestors, to treat and agree for the absolute Purchase, Sale, Releafe, or Surrender to the Use of his Majesty, of all or any their Estate and Interest in or to the said Isle or Lordship, or in or to all or any Regalities, Powers, Honours, Superiorities, Jurisdictions, Rights, Privileges, Duties, Customs, Revenues, Profits, or Advantages whatfoever, in over, or about the faid Island of Man or its Dependencies, upon fuch Conditions as should be thought fitting.

It was the Idea of these Times, that without such a Purchase the Lord's Rights could not be touched; and the Justice of the Legislature restrained them from proceeding to deprive the Lord of his Privileges, Duties, Customs, Revenues, or other Profits whatfoever, in, over, or about the Island, or within the Sea contiguous or

belonging to it, without first paying him for them.
In a few Years after the Act the last Earl of Derry died, and the Isle of Man defrended upon the late Duke of Atholl by lineal Descent, as Heir General of James Lord Stanley; and his Grace did Homage for it, and performed the perfonal Ser-

vices at the last Coronation.

Soon after his Grace's Accession to the Isle, some Overtures were made to him. from the Treasury for purchasing it, which were afterwards dropped, and again refumed by Mr. Pelham, and afterwards by the Duke of Newcastle, as they succesfively prefided at that Board - The Duke of Atboll, reluctant to fell fo ancient and valuable a Patrimony, but at the same time sabmitting to the Royal Pleasure for the publick Accommodation, did not fet his Price upon the Isle, but treated with the most unlimited Confidence, and met with as candid a Return; the Two noble Personages last-named having both assured him, that no Proposals should come from them which they would not adjudge as Arbitrators.

The Treaties proved ineffectual, not from any Act of the Duke, but they were

dropped by the Treasury.

The late Duke's Sincerity in treating appears from the Settlement he made, about the same time, of the Isle and its Dependencies, upon the present Duke and Duchels and their Issue; which, though a strict Settlement in its Tenor, contains an express Clause to enable the Trustees to alien to the Crown (and to the Crown only) upon a valuable Consideration. The

n. The late Duke died, and the Island under his Grace's Settlement, devolved upon

the now Duchess his Daughter and only Child.

The House of Commons having in the last Session addressed the Crown, to know what Proceedings had been had by the Treasury under the Act of 12 George I. towards the Purchase of the Island—The Treasury, by his Majesty's Commands, made their Return to the House, informing them, that it appeared by the Books in their Office, that the Commissioners had several times since the passing the Act endeavoured to set a Treaty on Foot for that Purpose with the Proprietor, and invited him to make Proposals; but that it did not appear what Proceedings had been had in consequence thereof.

On the 25th of July last the Treasury wrote to the Duke, informing him, that they were ready to treat with him for the Purchase of the Isle, or of such Part of the Rights claimed by him in the Island as it should be found expedient to vest in the Crown, for preventing the illicit Trade carried on between the Island and other Parts of his Majesty's Dominions; and that they were ready to receive a Proposal from him for that Purpose, specifying what Parts of his Grace's Property, and Rights of the Island, he was disposed to sell, and the Value he put upon them.

His Grace, who received this Letter in Scotland, by his Answer of the 29th of August, expressed his Ideas with regard to the Sale of the Island to be the same with those of the late Duke, who always declared, that no Temptation or Gain could induce him to give up so ancient and honourable a Birthright, which had been in the Family near four Centuries; but that if it was esteemed, upon full Consideration, an important Point for his Majesty's Service and for the Good of the Publick, he was willing to enter into a Treaty for the Disposal of it—That as he had been but a few Months in Possession of the Isle, and never in the least turned his Thoughts towards a Sale of it, it was impossible for him to six upon what he should think an adequate Price for a Possession so very considerable both for Honour and Prosses; and as he had never heard of any Notion to purchase a Part only, he did not understand what it was, and could therefore have no Proposal to make; but would always be ready to receive with Respect any Proposal which should come to him from their Lordships.

To this their Lordships, on the 12th of September, replied, That not having an Opportunity of informing themselves of the Value of this Possession, they could not fix upon a Price, which, as Trustees to the Publick, they should think themselves authorized to propose; but as his Grace had informed them, that when the Purchase of the Island was on former Occasions under Consideration, the late Duke had given a true and precise State of the Nature of the Possession, and of the Revenue arising from it; they therefore desired him, if he intended treating with them,

to transmit them in like Manner,

An exact Rental of the Revenue, specifying the several Kinds of which it consisted, and the annual Amount of each.

And with respect to any Customs or Impost Duties which his Grace might receive, the several Species of Goods on which levied, the Rates at which paid, and the an-

nual Amount of the Duties arising from each Species.

And their Lordships were pleased to add, that they must know the Nature as well as Value of every Branch of the Revenue of the Island, before they could form any Judgment of the Price which ought to be paid for it, or could determine what Part of his Grace's Possession in the Island it would be necessary or expedient to purchase, in order to obtain the Benefit for which such Purchase was intended;

and this was what they meant by the Proposal, in their former Letter, of purchasing only a Part of his Grace's Property in the Island.—That they were the more desirous of obtaining this Information in the fullest Manner, that the Parliament might thereby be enabled to judge what Terms it might be proper to allow.

The Duke did not stay to return an Answer to this second Letter, but came immediately to Town, to be ready at hand to enter into any Treaty for the Pur-

chase of the Island.

The Design of preventing Smuggling has been taken up at different Times-The Method was obvious, and occurred to every Person in the same Light-An Extension of the Revenue Laws of England to the Isle of Man, and drawing the Merits of every Seizure made there to an English Jurisdiction-But the exclusive Privi-leges granted by the Charter to the Isle of Man, assured and established by the Sanction of the Legislature, stood in the Way, and natural Justice suggested that fuch valuable Privileges ought to be redeemed and compensated----The Legislature, in 1726, heard the Rights of the Patent, and no sooner heard than they assented to them --- Prejudicial as they might be to the Mother-country, they faw they could be removed by Purchase only; and the Committee having proposed, the House immediately inserted the proper Clauses for buying the Patentees Right, for the express Purpose of " better enabling his Majesty to prevent Frauds and Abuses in the " exporting or importing Goods to and from the 'Isle of Man."--- The Resolution of the Committee intended an absolute Purchase of the whole Interest of the Lord; and the Act made to pursue and correspond with that Resolution, in describing the Thing to be purchased, mentions expresly " all Regalities, Powers, Superiorities, " Jurisdictions, Rights, Privileges, Duties, Customs, Revenues, Profits, or other Ad-" vantages what soever, in, over, or about the said Island of Man, or its Dependencies."

As it seemed difficult to estimate a Satisfaction for a partial Abolition of the Jurisdictions, Duties, and Rights, the Act seems to have intended a Purchase of the

whole Principality; and fo it has always been understood.

The Corona Aurea, which Lord Coke gives him the Patronage of a Bishoprick, the high and honourable Services to be performed personally to his Royal Master at his Coronation, and the other Badges and Insignia of Sovereignty, are all honorary, but burdensome; the Revenue taken away, the Diadem only brings little Comfort to the Possessor.—The Lord's interior Revenue in the Island is inconsiderable, consisting of some sew hereditary Estates only, and Fines upon Alienations.

If, by the Revolutions of Time, and the Extension of Commerce, the Privileges of the Grant are now found less compatible with the Interest of the Mother-country, and the Proximity of the Isle should be made its Objection;—it is his Grace's Misfortune, who does not conceive himself to have exercised any Rights beyond the Extent of his Grant; nor hath one new Duty been imposed, or a single Innovation introduced, for the last thirty Years, since the Accession of his Grace's Fa-

mily.

The Treasury, by their Proposal to purchase a Part, must have had in view the Subject-matter of the Bill which has now been brought into the House; for there is no other Part which they could possibly have thought of purchasing. But as the Bill now stands, it is in the Nature of an Ast of Resumption, depriving his Grace of the several Branches of his Revenue particularly pointed out by their Lordships Letter, and with them all the Privileges and Rights of the Charter which have any Connexion with or Relation to them, without any Compensation.

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Their Lordships Letter desired particular Accounts of the Customs, &c. that they might form a Judgment of the Price to be paid for them.—But no Provision of this Sort is made by the Bill.

The Charter has given the Lord the whole Island, Ports, Seas, Customs, Duties, and every Admiralty Jurisdiction; and he has given up a great Part of his Revenue

to the Support of these Harbours.

But the Bill has given the English Officers of the Customs and Excise a general Liberty of visiting, searching, and even seizing within the Harbours, and on all the Coasts of the Island.

The Charter has given his Grace all Customs, Imports, &c.

The Bill lays a general Prohibition upon Imports of almost every Kind, even from the British Colonies, as well as England.

The Charter gives the Lord the Duties upon Exports.

The Bill, if it does not prohibit, lays such a Restraint upon Exportation, as to a-

mount to a virtual Prohibition.

By the Charter the Duke is intitled to his Admiralty Courts, and every other Judicature.—By the Principles and Usage of Law, every Seizure is to be locally tried where made.—Such was the Opinion of the Legislature on passing the Act 7. Geo. I. Cap. 21. which laid the first Restraint upon the Importation of East-India Goods into this Island.—The present Bill admits the Principle, and all insular Scizures have been hitherto determined in the Island.—If Partiality be complained of, an Appeal lies, in every Case, from the inserior Court to the Lord, and from him to the King in Council.

The Bill ousts the Lord's Courts of their Jurisdiction, and the Merits of every

Seizure are to be determined in a distant Country.

The Charter repeatedly says---All Forfeitures shall be the Lord's.

The Bill entirely turns and diverts the Forfeitures into another Channel; and though taken in the Lord's Seas, or within his very Harbours, he is not to receive one Shilling from them.

His Grace has declared his Readiness to submit to his Majesty's Pleasure, for

the Good of the Publick.

But the Legislature and his Majesty's Ministers have alike authorized him to expect a Recompence for this necessary Sacrifice; and the Parliament is always just.

When the heritable Jurisdictions in Scotland were taken away, though they were attended but with small Profit to the Owners, yet the Justice of the Legislature at that Time directed an equitable Payment to be made to the Parties who were deprived of those Honours for the publick Utility.

Every Act, which affects private Property for publick Convenience, is preceded

by a previous Satisfaction to the Owner.

If the Publick is to be a great Gainer by that which diminishes his Grace's annual Revenue, it would be just, out of that annual Gain, to make him a Satisfaction equal to his annual Loss. If 5000 l. a Year, or more, is to be taken from him, in order, as it is said, to procure 350,000 l. a Year to the Publick, no Person can think it just, or becoming the Legislature of Great Britain, to hesitate to make up that Loss, when his Property is taken from him without his Consent.

Be the Confequences what they may, his Grace will not at this Time object to the Power of the Parliament of Great Britain over his feudatory Kingdom.——However, that Power stands upon this Implication only, that the Grant of the King cannot exclude the Legislature in respect of Dominions held of the Crown; but

where

where a feudatory Principality is held of an absolute Prince, from the Nature of the Tenure, he has no Power to make any Laws to bind them, as to their Imports, or Exports, on Duties, or any thing else; as was the Case of the Duchies of Normandy, Burgundy Britany, and the other Fiess held of the Crown of France.

The King of France had an appellate Jurisdiction incident to his Sovereignty, but he had no legislative Power. ——The Isle of Man, by the Nature of the Tenure, is held as amply of the King of England, as those Fiers were held of the King of France. The King has an appellate Jurisdiction incident to his Sovereignty. No Writs, or Process of the Courts of England, run there. No Offences, committed there, can be tried in England. And the King himself cannot, in any Particular, derogate from the Extent of his Grant, nor by any Commission make Seizures in the Ports, or affect the Imports or Exports.

The Grant of the Island having been confirmed, settled, and assured by Act of Parliament, as well as by Letters Patents, is a strong Objection to any Attempt to infringe so solven a Title, at least without making a Satisfaction sufficient to induce a Consent. For if Letters Patent from the Crown, granting what might be legally granted, expressly confirmed by an Act of Parliament, and the quiet Enjoyment of near 400 Years, don't give a Title, there is no Property in this Country,

nor can any Man have a Right to call any thing his own.

The Duke of Atholl is very reluctant to make Objections in an adverse Way, because all he desires is Justice, and hopes he has done nothing to deserve to be hardly treated. He has offered to submit to any of the most eminent Persons possessed of judicial Offices, whom his Majesty shall please to name, the Question, Whether his Rights, Property, Privileges, &c. are not violated by this Bill? If they should be of Opinion they are not, he must acquiesce in his Missfortune; because, though he may suffer, he has no Reason to complain.—If they are of Opinion that his Rights are taken away, and his Property affected, by the Power of the Parliament of Great Britain, he will use no Arguments, in that Case, to persuade, that he ought to have an ample Satisfaction from the Legislature for what they take from him against his Consent.

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